

**BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE FOR THE  
STATE OF TENNESSEE**

**TENNESSEE SECURITIES DIVISION,**  
Petitioner,

vs.

**ACCELERATED BENEFITS CORP.,  
PENSCO PENSIONS SERVICE OF  
FLORIDA,  
21<sup>ST</sup> CENTURY PAY COMMUNICATIONS,  
SANDRA KATHERINE SANDBERG, and,  
ELIZABETH GERTRUDE CHRISTMAS**  
Respondents,

No.: 12.06.-014221J

SECRETARY OF STATE

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**AGREED ORDER**

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The Tennessee Securities Division ("Division"), Petitioner, and Sandra Katherine Sandberg and Elizabeth Gertrude Christmas ("Respondents") agree to the entry of this Agreed Order in accordance with the Tenn. Code Ann. § 48-2-116 of the Tennessee Securities Act of 1980, as amended, Tenn. Code Ann. §§ 48-2-101, *et seq.*, which states that the Commissioner of Commerce and Insurance ("Commissioner") from time to time may make such orders as are necessary to carry out the provisions of the Act.

**GENERAL STIPULATIONS**

1. It is expressly understood by all parties that this Agreed Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.

2. This Agreed Order is executed by the Respondents for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Agreed Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. Respondents fully understand that this Agreed Order will in no way preclude additional proceedings by the Commissioner against the Respondents for acts or omissions not specifically addressed in this Agreed Order for facts and/or omissions that do not arise from the facts or transactions herein addressed, nor does it preclude additional proceedings by the Commissioner against the Respondents based upon these facts or transactions herein addressed by some other Division of the Commissioner.

4. Respondents expressly waive all further procedural steps, and expressly waive all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreed Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Agreed Order by the Commissioner.

5. The Tennessee Securities Act of 1980, as amended, Tenn. Code Ann. §§ 48-2-101, *et seq.* ("Act"), places the responsibility for the administration of the Act on the Commissioner. The Division is the lawful agent through which the Commissioner discharges this responsibility. Tenn. Code Ann. § 48-2-115.

#### **FINDINGS OF FACT**

6. The Act assigns the responsibility for administration of the Act to the Commissioner. The Division is the lawful agent through which the Commissioner administers the Act, and is

authorized to bring this action for the protection of investors and the public. The Division's official residence and place of business is in Nashville, Davidson County, Tennessee 37243.

7. Accelerated Benefits Corporation ("ABC") is a business entity with its principal place of business located at 105 E. Robinson Street, 2<sup>nd</sup> Floor, Orlando, Florida 32801. ABC has never been registered with the Division as a broker-dealer or agent of a broker-dealer.

8. 21<sup>st</sup> Century Pay Communications ("CPC") is a business entity with its principal place of business located at 3649 W. Beechwood, Suite 103, Fresno, California 93711. CPC has never been registered with the Division as a broker-dealer or agent of a broker-dealer.

9. Elizabeth "Libby" Gertrude Christmas ("Christmas") is a citizen and resident of Tennessee whose home address is located at 203 Oak Grove Drive, Nashville, Tennessee 37217. Christmas, CRD #1295169, had a Tennessee registration as an agent of a broker-dealer which terminated on June 6, 1990. Christmas was not, at all times relevant to the events described herein, registered with the Division as a broker-dealer or agent of a broker-dealer.

10. Sandra Katherine Sandberg ("Sandberg") is a citizen and resident of Tennessee with addresses located at P.O. Box 90744, Nashville, Tennessee 37209 and 5209 Kentucky Avenue, Nashville, Tennessee 37209. Sandberg, CRD # 1557201, had a Tennessee registration as an agent of a broker-dealer which terminated on September 22, 1986. Sandberg was not, at all times relevant to the events described herein, registered with the Division.

11. Interests in viatical settlements are investment contracts as defined by *State v. Brewer*, 932 S.W.2d 1, 11 (Tenn. Crim. App. 1996), and are therefore securities requiring registration under the Act. In addition, Tenn. Code Ann. § 48-2-102(12) defines a security to include "a life settlement contract, as defined in § 56-50-102, or any fractional or pooled interest in a life insurance policy or

life settlement contract. . . .” Respondents have never registered any securities related to viatical settlements with this Division.

12. In the latter part of 1996, James E. Nelson (“Nelson”), a citizen and resident of Tennessee, and his wife were contacted several times by two (2) financial planners from Nashville, Tennessee. The contacts were the result of Nelson sending in a mailer in response to a magazine advertisement regarding financial planners. These financial planners were the Respondents.

13. According to Nelson, Sandberg introduced him to Christmas who told Nelson that she was a financial planner who could help Nelson get his financial affairs in order. It was Nelson’s understanding that Christmas would provide Nelson with the following services: (1) review the Nelsons’ financial records; (2) organize the Nelsons’ financial records; (3) prepare a report summarizing their financial status; and (4) prepare a financial plan for investing their money in the future.

14. Nelson also understood the arrangement with Christmas to include Christmas’ assistance in preparing and filing the Nelsons’ federal income tax returns and to provide him with audit protection if the Internal Revenue Service audited his returns. Shortly thereafter, Nelson took custody of the Nelsons’ records and tax information.

15. On or about November 12, 1996, Nelson purchased a twelve (12) month viatical contract (“Viatical #1”) through ABC on behalf of his wife. Nelson funded the purchase of Viatical #1 through an IRA Rollover, with Pensco becoming the custodian of the investment. Nelson invested a total of forty-seven thousand two hundred nine dollars (\$47,209) in Viatical #1.

16. On or about April 23, 1997, Nelson purchased several ABC viatical contracts with funds from his existing investments. Nelson funded the purchases through an IRA Rollover, with Pensco becoming the custodian. Nelson invested ten thousand dollars (\$10,000) in a thirty (30) month contract ("Viatical #2"), ten thousand dollars (\$10,000) in a twenty-four (24) month contract ("Viatical #3"), twenty-four thousand dollars (\$24,000) in an eighteen (18) month contract ("Viatical #4"), and ten thousand dollars (\$10,000) in a twenty-four (24) month contract ("Viatical #5). The total amount of Nelson's investments with ABC made through Christmas totaled one hundred thousand two hundred nine dollars (\$101,209). To date, Nelson has only received one payment of fourteen thousand one hundred seventy-nine dollars and sixty-nine cents from his investments with ABC. Nelson has repeatedly inquired about receiving returns on his investments and has sought the return of his principal from ABC with no success.

17. On or about December 18, 1997, Nelson purchased two (2) Modified Units of 21<sup>st</sup> Century Pay Communications ("CPC") from Christmas at seventy-five hundred dollars (\$7,500) each for a total of fifteen thousand dollars (\$15,000). The Modified Units from CPC were "modified" pay phones, which an unsigned memo from Christmas states are "to provide a 5-year [sic] stream of income with principal back at end [sic] of period" and which Christmas further states will provide income "with tax benefits and. . . tax credits available." The date Christmas indicated on the memo is "12/22/97." To date, Nelson has received neither the promised return from his investment nor the return of his principal from CPC.

18. According to a memo signed by Christmas that is addressed to Larry Hawkins ("Hawkins"), a relative of Nelson's who attempted to assist Nelson in obtaining information from Christmas, Nelson invested ten thousand dollars (\$10,000) in The People's Network ("TPN"), which

purported to be a business that Christmas would start, over a six month period. TPN "never got off the ground," according to Christmas and, to date, Nelson has not received the return of his principal from Christmas.

### **CONCLUSIONS OF LAW**

1. Pursuant to Tennessee Code Annotated § 48-2-115(a), the responsibility for the administration of the Act is upon the Commissioner. The Division is the lawful agent through which the Commissioner discharges this responsibility.

2. Pursuant to Tennessee Code Annotated § 48-2-116, the Commissioner may make, promulgate, amend, and rescind such orders as are necessary to carry out the provisions of this Act and that such order is in the public interest, necessary for the protection of investors and consistent with the purposes fairly intended by the policy and provision of the Act.

3. Tennessee Code Ann. § 48-2-104 states, in pertinent part, that it is unlawful for any person to sell any security in this state unless (1) it is registered under this part; (2) the security or transaction is exempted under § 48-2-103; or (3) the security is a covered security.

4. Tenn. Code Ann. § 48-2-109 provides, in pertinent part, that it is unlawful for any person to transact business in this state as a broker-dealer or agent unless such person is registered as a broker-dealer or agent under this part.

5. Tennessee Code Annotated § 48-2-109(c) provides that it is unlawful for any person to transact business from or in this state as an investment adviser unless: (1) the person is registered as an investment adviser under this part; (2) the person is required to register pursuant to Section 203 of the Investment Advisers Act of 1940; or (3) the person's only clients in this state are insurance companies.

6. Tenn. Code Ann. § 48-2-121(a) states, in pertinent part, that it is unlawful for any person, in connection with the offer, sale or purchase of any security in this state, directly or indirectly, to employ any device, scheme, or artifice to defraud, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, or engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

7. Based upon the findings of fact cited above and the conclusions of law contained herein, the Commissioner considers the actions of the Respondents to be in violation of Tenn. Code Ann. §§ 48-2-104 and to provide grounds for an order necessary to carry out the provisions of the Act.

8. Respondents admit the general stipulations, findings of fact and conclusions of law contained herein and hereby also acknowledge the Commissioner's authority to administer said statute and concede that the Commissioner's interpretation of the statute is reasonable and enforceable. Therefore, Respondents, in order to avoid any further expenses or costs associated with litigating this matter, hereby desire to enter into this Agreed Order.

#### **ORDER**

**NOW, THEREFORE**, on the basis of the foregoing, and the waiver by Respondents of their rights to a hearing and appeal under the Act and Tennessee's Uniform Administrative Procedures Act, Tennessee Code Ann. §§ 4-5-101 *et seq.*, and the admission by the Respondents of the jurisdiction of the Commissioner, the Commissioner finds that the Respondents have agreed to the entry of this Order and that this Order is appropriate, in the public interest and necessary for the protection of investors.



**IT IS ORDERED**, pursuant to Tennessee Code Ann. § 48-2-116 of the Act that:

1. The Respondents and/or any person on behalf of the Respondents shall not offer or sell any securities from, to, or into this State until such time as the securities are first appropriately registered with the Division to offer or sell same, as provided at Tenn. Code Ann. § 48-2-104 *et seq.*

2. The Respondents and/or any person on behalf of the Respondents shall not offer or sell any securities from, to, or into this State until such time as the Respondents shall have first registered as a broker-dealer or agent of a broker-dealer with the Division.

3. The Respondents and/or any person on behalf of the Respondents shall not offer or sell any securities from, to, or into this State without first having exercised due diligence that all statements, representations, prospectuses, and other communications, advertisements, or documents of any kind which are provided to prospective investor(s) are complete, accurate and true.

4. The Respondents agree that should they or any person on behalf of the Respondents offer or sell any securities without complying with all registration requirements set forth by the Act that such offer(s) or sale(s) shall be considered a violation of this Agreed Order and will subject the Respondents to any and all statutory penalties for the offer(s) and/or sale(s) of such securities that are provided under the Act.

**IT IS FURTHER ORDERED** that this Agreed Order represents the complete and final resolution of and discharge of all administrative and civil claims, demands, actions and causes of action by the Division against the Respondents for violations of the Act which relate specifically to all actions and/or omissions by Respondents which are so described in this Agreed Order. This Agreed Order shall not be construed to apply to any other facts or circumstances other than to the actions and/or omissions of the Respondents as set forth herein.



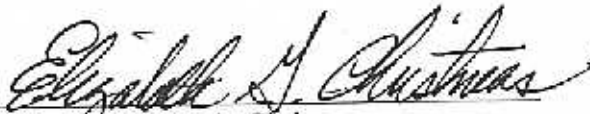
This Agreed Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signatures affixed below, the Respondents affirmatively state that they have freely agreed to the entry of this Agreed Order, that they have been advised that they may consult legal counsel in this matter, and that they have had the opportunity to consult with legal counsel should they have desired to do so, that they waive their right to a hearing on the matters underlying this Agreed Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Agreed Order, affirmatively state their agreement to be bound by the terms of this Agreed Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Agreed Order, are binding upon them.

**SO ORDERED.**

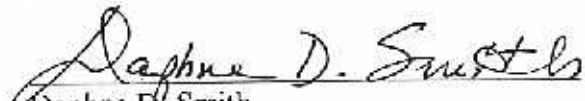
Entered this the 26<sup>th</sup> day of April, 2002.

  
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Anne B. Pope, Commissioner  
Department of Commerce and Insurance


APPROVED FOR ENTRY:



Elizabeth Gertrude Christmas  
203 Oak Grove Avenue  
Nashville, Tennessee 37217



Daphne D. Smith  
Assistant Commissioner for Securities  
Department of Commerce and Insurance  
500 James Robertson Parkway  
Sixth Floor, Davy Crockett Tower  
Nashville, Tennessee 37243  
615 741 2947



Sandra K. Sandberg  
5209 Kentucky Avenue  
Nashville, Tennessee 37209



Kevin C. Bartels (BPR# 020618)  
Department of Commerce and Insurance  
Office of Legal Counsel  
312 Eighth Avenue, North  
Tennessee Tower, 25<sup>th</sup> Floor  
Nashville, Tennessee 37243-0569  
615 741 2199